

<p><i>New Jersey Department of Environmental Protection</i></p> <p>SCHOOL RADON TESTING PROGRAM</p>

Summary of Contractual, Bidding, and Funding Arrangements

The following summary of institutional arrangements to implement the School Radon Testing Law (N.J.S.A. 18A:20-40) was developed jointly by the New Jersey Departments of Community Affairs (DCA), Education (DOE), Environmental Protection (DEP), Treasury (Treasury), and the Schools Construction Corporation (SCC), a subsidiary of the Economic Development Authority (EDA).

I. FUNDING OF SCHOOL TESTING AND MITIGATION

- A) The SCC will provide reimbursement for DOE approved radon mitigations, to districts that apply for reimbursement. Reimbursements will range from 40% of the cost for non-Abbott districts to 100% of the cost for Abbott districts. Costs relating to the design of the mitigation system will not be reimbursed if the design is done separately to provide bid specifications. All DOE approved radon mitigations, including those costing less than the bid threshold, will be reimbursable by SCC.
- B) The SCC will not provide reimbursement for radon testing costs, except for DOE approved post-mitigation testing to ensure that the system is functioning effectively, when such testing is included in the cost of the mitigation and arranged by the mitigation business.

Note: Mitigations and post-mitigation testing may be done in warm weather months, in which case testing may not reflect representative radon levels. Districts are advised to state in their contracts that they reserve the right to separately test post-mitigation radon concentrations during the cold weather months, and that the contractor must provide additional work as needed, if concentrations are not below 4 pCi/L at that time.

- C) Where testing of a room reveals radon levels of 4 pCi/L or above, mitigation will be considered an 'emergent' health and safety project by DOE and SCC, and prioritized accordingly. Such emergent projects would be restricted to the mitigation only; that is, districts could not incorporate other school construction projects as part of the emergent project.

II. PREQUALIFICATION, CLASSIFICATION, CERTIFICATION, SUBCONTRACTING REQUIREMENTS

- A) All individuals that conduct radon testing or mitigation services **MUST** be certified by the DEP, and **MUST** be employed by or affiliated with a radon business certified by the DEP specifically to provide services to schools.

For radon testing, school officials can be exempted from this requirement if they receive DEP-approved training in radon testing, and receive a DEP identification number for school testing. Such school officials may test schools within their own district (and in no other districts), using devices obtained from a certified measurement business, for a period ending with the end of each five-year testing cycle specified by the law.

- B) For all mitigation work above the bid threshold in non-Abbott districts, SCC will require that contractors (either a mitigation business or a firm subcontracting to a mitigation business) be classified by the Department of Treasury and classified under SCC procedures, for the projects to be eligible for reimbursement. (The vast majority of districts are non-Abbott; the Abbott districts consist of a few dozen districts whose budgets include a high percentage of state aid.)
- C) For radon testing in non-Abbott districts, the SCC, Treasury, and DCA Division of Local Government Services, have no requirements for prequalification or classification of testing businesses relating to schools. However, for testing work above the bid threshold, some school districts may choose to require prequalification or classification in their contract procedures.
- D) For the Abbott districts who have DOE approved radon mitigation projects managed by the SCC, certified radon businesses need not be prequalified by the SCC or classified by Treasury as they will act only in the capacity of a subcontractor.
- E) For the Abbott districts who have DOE-approved radon mitigation projects that the district will manage, certified radon businesses must all be prequalified and classified by the Treasury and SCC, even if the work is below the bid threshold. The only exception is for radon businesses acting as subcontractors, who need not be prequalified. This applies to testing, mitigation design and mitigation installation.
- F) It is acceptable for schools to contract with an already prequalified firm who subcontracts the mitigation or testing work to a certified radon business. The prequalified firm must indicate in its contract with the school the name of the certified radon business that will do the work. There are no requirements from the DCA, DOE, DEP, SCC, or Treasury, regarding the form or content of the contract between a prequalified business and a certified radon business acting as a subcontractor.

III. BIDDING PROCEDURES

- A) Since the testing, design, and installation of a radon mitigation system is customarily done by a single DEP certified radon mitigation business, boards of education can either receive formal bids or use competitive contracting pursuant to N.J.S.A.

18A:18A-4.1 et seq. and N.J.A.C. 5:34-4.1 et seq., when the price of such services will be in excess of the bid threshold.

The Division of Local Government Services has determined that testing for and the design and installation of a radon mitigation system is an eligible service consistent with the intent of the statutory provisions encouraging the use of competitive contracting. The Division's determination is made on a blanket basis, and no further application is required. Therefore, the Division of Local Government Services pursuant to N.J.S.A. 18A:18A-4.1K approves the use of the competitive contracting process to obtain the services of certified radon mitigation businesses regarding the testing for and design and installation of radon mitigation systems as described in the DEP's "Summary of Contractual, Bidding, and Funding Arrangements" document.

- B) If a board of education decides to have the testing for and design of a mitigation system completed separately from the development and preparation of a set of specifications, the services of a registered architect or licensed professional engineer can be retained pursuant to the application of the professional services provision of N.J.S.A. 18A:18A-5a.(1).

Certified radon mitigation businesses that design radon mitigation systems and develop and prepare specifications for such systems, cannot also submit formal bids or competitive contracting proposals for the installation of such systems. This would also apply in the case of a certified radon mitigation business that designs, develops, and prepares a set of specifications for a radon mitigation system as a subcontractor to a DEP prequalified prime contractor who has subcontracted the testing or mitigation work.

IV. OTHER

- A) Schools can only contract with either a certified radon business or a firm that is subcontracting radon testing or mitigation to a certified radon business. They cannot contract with an individual certified as a radon technician or specialist to conduct radon testing or mitigation.
- B) DCA requires that signed and sealed construction drawings be provided to appropriate subcode officials for school mitigations.
- C) While the subcontracting mitigation business can utilize the services of mechanical engineers, architects or other professionals, the certified mitigation business is ultimately responsible for the design and installation of the mitigation system, and must ensure that it brings radon concentrations to less than 4 pCi/L, in accordance with New Jersey regulations.
- D) Data from radon testing and mitigation of schools will be reported to the DEP by certified radon businesses in their routine monthly reports. This information will be available to the public on request, as there is no legal requirement for confidentiality.

- E) Test results must be reported to schools on the letterhead of the certified radon measurement business, even if that business is working as a subcontractor to a prequalified business.
- F) Further questions about agency requirements should be directed to the following agency representatives:

Department of Community Affairs

Bidding requirements – Joe Valenti, (609) 292-7842

Architectural or engineering drawings – John Terry, (609) 984-7609

Department of Education

Bernie Piaia, Office of School Facilities, (609) 984-2738

Department of Environmental Protection

Judy Morgan or Anita Kopera, Radon Section, (800) 648-0394 or (609) 984-5425

Department of Treasury

Rick Ferrara, (609) 633-3914

Economic Development Authority, School Construction Corporation

Fritz Reuss, (609) 292-5502

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